

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Francisco Javier CACILLAS-Florez

Defendant

2008 AUG 22 PM 3:12  
Magistrate Clerk No.

08 MJ 26 00

CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

COMPLAINT FOR VIOLATION OF:

- BY [Signature] DEPUTY
- ) Title 8, U.S.C., Section 1326
  - ) Deported Alien Found in the
  - ) United States
  - ) Title 18, U.S.C., Sec. 922(g)(5)(A)
  - ) Possession of a Firearm by an
  - ) Illegal Alien
  - ) (Felony)

The undersigned complainant, being duly sworn, states:

COUNT ONE

On or about **August 19, 2008** within the Southern District of California, defendant, **Francisco Javier CACILLAS-Florez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

COUNT TWO

That on or about **August 21, 2008**, within the Southern District of California, defendant **CACILLAS-Florez**, an alien, illegally and unlawfully in the United States, did knowingly and unlawfully possess, in and affecting commerce, a firearm to wit: **Mossberg, model 500, 12 gauge pump action shotgun serial number H991191**, in violation of Title 18, United States Code, Section 922 (g)(5)(A).

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

[Signature]

SIGNATURE OF COMPLAINANT

Leslie H. Pino  
Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 22nd DAY OF AUGUST, 2008.

[Signature]

Barbara L. Major  
UNITED STATES MAGISTRATE JUDGE

8/21/08 [Signature]

**CONTINUATION OF COMPLAINT:**  
**Francisco Javier CACILLAS-Florez**

**PROBABLE CAUSE STATEMENT**

On August 19, 2008, United States Border Patrol Agents observed Francisco Javier CACILLAS-Florez, hereinafter referred to as the defendant, at 912 Delta Street in National City, California. The defendant has been observed on several prior occasions.

I am currently assigned to the Imperial Beach Border Patrol Station, San Diego, CA, Station Abatement Team (SAT). My regular duties on the SAT include investigating, arresting, and prosecuting human smuggling and human trafficking. To prosecute and arrest an individual, my responsibility includes running official record checks on previously deported criminal aliens. I do this in order to determine if any of these illegal aliens have returned to the United States in violation of Title 8 of the United States Code, Section 1326. On August 19, 2008, I ran official record checks on the defendant.

Those record checks revealed that, on March 26, 2008, the defendant failed to appear at court for four driving violations. The address given to the DMV by the defendant was 912 Delta Street National City, CA. The defendant did not at that time and currently does not have a valid driver's license in the state of California.

Record checks indicate that the defendant is a citizen of Mexico. The defendant was removed to Mexico on June 30, 2007 in San Diego, California, pursuant to an order of removal by the Executive Office for Immigration Review. Immigration officers executed this order on February 13, 2008.

Nothing contained in the official records maintained by the United States Citizenship and Immigration Services indicates that the defendant has applied to the Attorney General of the United States or the Secretary of Department of Homeland Security for permission to reenter the United States.

On August 21, 2008, United States Border Patrol Agents executed a search warrant at 912 Delta Street in National City. A Mossberg, model 500, 12 gauge pump action shotgun serial number H991191, was found in the residence. The defendant was advised of his Miranda rights and was willing to make a statement without a lawyer present. The defendant admitted to being a citizen and national of Mexico illegally present in the United States. The defendant also admitted to making an illegal entry into the United States, and that he had not received permission to re-enter the United States after being removed. He also admitted that the firearm found in the residence belonged to him.

Based on the foregoing there is probable cause to believe that **Francisco Javier CACILLAS-Florez**, has illegally re-entered the United States after deportation in violation of Title 8 of the United States Code, § 1326, deported alien found in the United States. There is also probable cause to believe that **Francisco Javier CACILLAS-Florez** is an alien illegally and unlawfully in possession of a firearm in violation of Title 18, United States Code, Section 922(g)(5)(A).